

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 16-1552V

Filed: September 4, 2019

UNPUBLISHED

MONICA PORTEE,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);
Damages Decision Based on Proffer;
Influenza (Flu) Vaccine; Shoulder
Injury Related to Vaccine
Administration (SIRVA)

*Shealene Priscilla Mancuso, Muller Brazil, LLP, Dresher, PA, for petitioner.
Glenn Alexander MacLeod, U.S. Department of Justice, Washington, DC, for
respondent.*

DECISION AWARDING DAMAGES¹

Dorsey, Chief Special Master:

On November 21, 2016, petitioner filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² (the “Vaccine Act”). Petitioner alleges that she suffered a right shoulder injury caused in fact by the influenza vaccination she received on October 8, 2015. Petition at 1, ¶¶ 2, 11. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On September 14, 2018, the undersigned issued a ruling on entitlement, finding petitioner entitled to compensation for her shoulder injury. On September 3, 2019, respondent filed a proffer on award of compensation (“Proffer”) indicating petitioner should be awarded \$115,906.59. Proffer at 1. In the Proffer, respondent represented

¹ The undersigned intends to post this decision on the United States Court of Federal Claims' website. **This means the decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access. Because this unpublished decision contains a reasoned explanation for the action in this case, undersigned is required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services).

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

that petitioner agrees with the proffered award. *Id.* Based on the record as a whole, the undersigned finds that petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **the undersigned awards petitioner a lump sum payment of \$115,906.59 in the form of a check payable to petitioner, Monica Portee.** This amount represents compensation for all damages that would be available under § 15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Nora Beth Dorsey
Nora Beth Dorsey
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

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**SECRETARY OF HEALTH
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**No. 16-1552V (ECF)
CHIEF SPECIAL MASTER
NORA BETH DORSEY**

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

On September 14, 2018, the Court entered its Ruling on Entitlement, finding petitioner, Monica Portee, entitled to Vaccine Act compensation. Respondent herein proffers the following amount(s) of reasonable compensation due petitioner.

I. Items of Compensation

Based upon the evidence of record, respondent proffers that petitioner should be awarded a lump sum total of \$115,906.59, which amount represents all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a).¹ Petitioner agrees.

¹ Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future medical expenses and future pain and suffering.

II. Form of the Award

The parties recommend that the compensation provided to petitioner should be made through a lump sum payment of \$115,906.59 in the form of a check payable to petitioner, Monica Portee.² Petitioner agrees.

Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General

C. SALVATORE D’ALESSIO
Acting Director
Torts Branch, Civil Division

CATHARINE E. REEVES
Deputy Director
Torts Branch, Civil Division

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/s/ **GLENN A. MACLEOD**
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DATE: September 3, 2019

² Petitioner is a competent adult. No guardianship is required.